

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

NICOLE KLEIN

(b) County of Residence of First Listed Plaintiff CAPE MAY
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Lane J. Schiff, Esquire
Console Mattiacci Law LLC, 1525 Locust Street, 9th Floor
Philadelphia, PA 19102 215-545-7676

DEFENDANTS

WILLS EYE HOSPITAL

County of Residence of First Listed Defendant PHILADELPHIA
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §2000e, et seq. ("Title VII"); 43 P.S. §951, et seq. ("PHRA"); Phila. Code §9-1101, et seq. ("PFPO").

Brief description of cause:

Plaintiff brings this action against her former employer for sex discrimination, retaliation, and hostile work environment.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
excess of \$75,000CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

September 7, 2021

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Avalon, NJAddress of Defendant: Philadelphia, PA 19107

Place of Accident, Incident or Transaction: _____

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when *Yes* is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE: 9/7/21
Attorney-at-Law / Pro Se Plaintiff314179

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)**A. Federal Question Cases:**


- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify) _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Lane J. Schiff, Esquire, counsel of record or pro se plaintiff, do hereby certify:☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:☐ Relief other than monetary damages is sought.DATE: 9/7/21
Attorney-at-Law / Pro Se Plaintiff314179

Attorney I.D. # (if applicable)

2

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

NICOLE KLEIN	:	CIVIL ACTION
	:	
PLAINTIFF,	:	
	:	
v.	:	
WILLS EYE HOSPITAL	:	
	:	NO.
DEFENDANT.	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:


- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management Cases that do not fall into any one of the other tracks. (X)

September 7, 2021

Date

(215) 545-7676

Telephone


Attorney-at-law

(215) 565-2859

FAX Number

Plaintiff, Nicole Klein

Attorney for

schiff@consolelaw.com

E-Mail Address

3. At all times material hereto, Defendant acted by and through its authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendant and in furtherance of Defendant's business.

4. At all times material hereto, Defendant acted as an employer of Plaintiff within the meaning of the statutes which form the basis of this matter.

5. At all times material hereto, Plaintiff was an employee of Defendant within the meaning of the statutes which form the basis of this matter.

III. JURISDICTION AND VENUE

6. The causes of action that form the basis of this matter arise under Title VII, the PHRA, and the PFPO.

7. The District Court has jurisdiction over Count I (Title VII) pursuant to 28 U.S.C. §1331.

8. The District Court has supplemental jurisdiction over Count II (PHRA) and Count III (PFPO) pursuant to 28 U.S.C. §1367.

9. Venue is proper in the District Court under 28 U.S.C. §1391 because a substantial part of the events or omissions giving rise to the claim occurred within this District.

10. On or about April 14, 2020, Plaintiff filed a Complaint with the Pennsylvania Human Relations Commission ("PHRC"), complaining of the acts of discrimination, retaliation, and harassment alleged herein. This complaint was cross-filed with the Equal Employment Opportunity Commission ("EEOC"). Attached hereto, incorporated herein and marked as "Exhibit A" is a true and correct copy of the PHRC Complaint (with personal identifying information redacted).

11. On or about June 10, 2021, the EEOC issued to Plaintiff a Notice of Right to Sue.

Attached hereto, incorporated herein and marked as “Exhibit B” is a true and correct copy of that notice.

12. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

IV. FACTUAL ALLEGATIONS

13. Plaintiff was employed by Defendant from on or about December 19, 2014 until on or about March 5, 2020.

14. Plaintiff consistently performed her job duties in a highly competent manner and received positive feedback.

15. Plaintiff last held the position of Infection Control, Quality Improvement, and Regulatory Compliance Manager.

16. In or about 2016, Plaintiff began reporting to Gregory Passanante (male), Chief Nursing Officer.

17. Passanante subjected Plaintiff to egregious sexual harassment.

18. Passanante made numerous comments to or about Plaintiff of a sexual and sexist nature, including, without limitation:

- a. Passanante told Plaintiff that one of his passwords was 69, a reference to the sexual act;
- b. Passanante commented to Plaintiff that he did not want to touch her “nuts;”
- c. Passanante told Plaintiff and other female employee that he wanted to hug them;
- d. Passanante told Plaintiff that he had been accused of sexual harassment at another hospital where he previously worked;

- e. Passanante commented on female employees' and Plaintiff's physical appearance and clothes;
- f. Passanante stated that he was the "boss" and could have anything he wanted;
- g. Passanante commented that a female outside representative wore a dress that was too tight, that her "boobs were hanging out," and that she had big lips; and
- h. Passanante commented that that a Senior Registered Nurse looked "stuffed in her scrubs," and that she was "too big" to wear her scrubs.

19. Multiple employees told Plaintiff that Passanante hired Plaintiff because she is "pretty" and that he looked at her as "ditzy."

20. In addition to making sexist comments, Passanante treated female employees, including Plaintiff, in a more hostile, dismissive, and demeaning manner than he treated male employees, including, without limitation,

- a. Passanante got angry at Plaintiff, slammed his hands against a desk, and said that this was his "fucking job" on the line;
- b. Passanante interrupted Plaintiff during meetings;
- c. Passanante belittled the work of Plaintiff and other female employees;
- d. Passanante unjustly criticized the performance of Plaintiff and other female employees and did not criticize male employees whose performance was deficient;
- e. Passanante called a female employee a "fucking idiot;" and
- f. Passanante stated that he yelled at his mother and made her cry.

21. Plaintiff found Passanante's comments and conduct to be offensive, based on sex,

and contributing to the hostile work environment to which Plaintiff was subjected.

22. In addition to Passanante's comments and conduct, he also refused to give Plaintiff an additional salary increase despite giving raises to male employees.

23. In or about 2018, when Plaintiff asked Passanante for a salary increase, he refused and told Plaintiff that she needed to get her master's degree first.

24. In or about May 2019, after Plaintiff had obtained her master's degree, Passanante nevertheless stated that Plaintiff did not deserve a raise and that she did not know how to manage money.

25. Plaintiff complained to Kimmel numerous times about Passanante's comments and conduct.

26. Kimmel repeatedly failed to take corrective action.

27. Kimmel told Plaintiff that Passanante is sexist and does not like successful women and instructed Plaintiff not to challenge Passanante.

28. Kimmel instructed Plaintiff not to complain about Passanante, especially because Cynthia Farano (female), Chief Human Resources and Compliance Officer, would not take her side.

29. Other female employees told Plaintiff that Farano did not respect women and liked male employees better.

30. On or about January 15, 2020, in a meeting with Farano, Plaintiff complained of sex discrimination. Plaintiff complained of Passanante's sex-based comments, conduct, and hostility towards her.

31. Farano instructed Plaintiff to be positive and look for another job.

32. Defendant failed to remedy or prevent the sex discrimination to which Plaintiff

was subjected.

33. Defendant failed to investigate Plaintiff's sex discrimination complaints.

34. After Plaintiff complained of sex discrimination, Passanante was increasingly hostile and dismissive toward her, including, without limitation, ignoring Plaintiff, withholding work-related information, assigning Plaintiff's job duties to other employees, criticizing Plaintiff performance, and speaking over Plaintiff:

35. On or about January 17, 2020, in a meeting with Kimmel, Plaintiff complained of sex discrimination and retaliation.

36. On or about January 21, 2020, in a meeting with Passanante and Farano, Farano stated that she told Passanante about Plaintiff's meeting with her on January 15, 2020, wherein Plaintiff complained of sex discrimination.

37. Farano again stated that Plaintiff should look for another job and provided her with contact information for a recruiter. Passanante additionally stated that Plaintiff should look for another job.

38. On or about January 22, 2020, in a meeting with Farano, Plaintiff complained that Passanante was retaliating against Plaintiff. Plaintiff stated that she felt like Passanante was trying to push her out.

39. Farano instructed Plaintiff to avoid Passanante and look for another job.

40. Defendant failed to remedy or prevent the sex discrimination and retaliation to which Plaintiff was subjected.

41. Defendant failed to investigate Plaintiff's sex discrimination and retaliation complaints.

42. On or about March 5, 2020, in a meeting with Passanante and Farano, Defendant

terminated Plaintiff's employment, effective immediately.

43. The stated reason for Plaintiff's termination was position elimination.

44. Plaintiff was the only employee at Defendant whose position was allegedly eliminated effective March 5, 2020.

45. Defendant hired a new employee who assumed the majority of Plaintiff's job duties.

46. Defendant's articulated explanation is a pretext.

47. Plaintiff's sex was a motivating and/or determinative factor in Defendant's treatment of Plaintiff, including failing to give her a salary increase and the termination of her employment.

48. Plaintiff's engaging in protected activity was a motivating and determinative factor in Defendant's treatment of Plaintiff, including the termination of her employment

49. Defendant subjected Plaintiff to a hostile work environment because of her sex and/or her complaints of discrimination and retaliation.

50. Defendant failed to prevent or address the discriminatory and retaliatory conduct referred to herein and further failed to take corrective and/or remedial measures to make the workplace free of discriminatory and retaliatory conduct.

51. Plaintiff was subjected to severe and/or pervasive conduct that interfered with her ability to perform her job duties and was not welcomed by Plaintiff, thereby creating a hostile work environment.

52. The conduct to which Plaintiff was subjected was so severe and/or pervasive that a reasonable person in Plaintiff's position would find the work environment to be hostile and/or abusive.

53. As a direct and proximate result of the discriminatory and retaliatory conduct of Defendant, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

54. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of the unlawful behavior complained of herein unless and until this Court grants the relief requested herein.

55. Plaintiff has incurred and is entitled to all costs and attorneys' fees incurred as a result of the unlawful behavior complained of herein.

COUNT I – TITLE VII

56. Plaintiff incorporates herein by reference the above paragraphs as if set forth herein in their entirety.

57. By committing the foregoing acts of discrimination, retaliation, and harassment against Plaintiff, Defendant violated Title VII.

58. Defendant acted willfully and intentionally, and with malice and/or reckless indifference to Plaintiff's protected rights, thereby warranting the imposition of punitive damages.

59. As a direct and proximate result of Defendant's violation of Title VII, Plaintiff has suffered the damages and losses set forth herein and has incurred attorneys' fees and costs.

60. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's violations of Title VII unless and until this Court grants the relief requested herein.

61. No previous application has been made for the relief requested herein.

COUNT II – PHRA

62. Plaintiff incorporates herein by reference the above paragraphs as if set forth herein in their entirety.

63. By committing the foregoing acts of discrimination, retaliation, and harassment against Plaintiff, Defendant violated the PHRA.

64. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

65. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's violations of the PHRA unless and until this Court grants the relief requested herein.

66. No previous application has been made for the relief requested herein.

COUNT III – PFPO

67. Plaintiff incorporates herein by reference the paragraphs above, as if set forth herein in their entirety.

68. By committing the foregoing acts of discrimination, retaliation, and harassment against Plaintiff, Defendant violated the PFPO.

69. Said violations warrant the imposition of punitive damages.

70. As a direct and proximate result of Defendant's violation of the PFPO, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

71. Plaintiff is now suffering and will continue to suffer irreparable injury and

monetary damages as a result of Defendant's violations of the PFPO unless and until this Court grants the relief requested herein.

72. No previous application has been made for the relief requested herein.

RELIEF

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendant's unlawful conduct, and specifically prays that this Court grant the following relief to Plaintiff by:

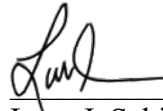
- (a) declaring the acts and practices complained of herein to be in violation of Title VII;
- (b) declaring the acts and practices complained of herein to be in violation of the PHRA;
- (c) declaring the acts and practices complained of herein to be in violation of the PFPO;
- (d) enjoining and permanently restraining the violations alleged herein;
- (e) entering judgment against Defendant and in favor of Plaintiff in an amount to be determined;
- (f) awarding damages to make Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendant's unlawful conduct;
- (g) awarding back pay and front pay;
- (h) awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendant's unlawful conduct;
- (i) awarding punitive damages to Plaintiff;
- (j) awarding Plaintiff such other damages and relief as is appropriate under Title VII, the PHRA, and the PFPO;

- (k) awarding Plaintiff attorneys' fees;
- (l) awarding Plaintiff the costs of suit, expert fees and other disbursements; and
- (m) granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

CONSOLE MATTIACCI LAW, LLC

Dated: September 7, 2021

By:



Lane J. Schiff, Esquire
1525 Locust St., 9th Floor
Philadelphia, PA 19102
(215) 545-7676

Attorney for Plaintiff,
Nicole Klein

EXHIBIT A

3. I, Nicole Klein, the Complainant herein, allege that I was subjected to unlawful discrimination because of my sex (female) and unlawful retaliation because of my complaints of sex discrimination, as set forth below.

Discrimination and Retaliation

A. I specifically allege:

[1] I was hired by Respondent Entity on or about December 19, 2014.

[2] I consistently performed my job duties in a highly competent manner, and received positive feedback.

[3] I last held the position of Infection Control, Quality Improvement, and Regulatory Compliance Manager.

[4] I last reported to Respondent Gregory Passanante (male), Chief Nursing Officer. Respondent Passanante reported to Joseph Bilson (male), Chief Executive Officer.

[5] Respondent Passanante made comments to me of a sexual and sexist nature.

[6] In a leadership staff meeting, Respondent Passanante stated that he had been accused of sexual harassment at another hospital where he was previously employed.

[7] Respondent Passanante commented to **REDACTED** (female), Administrative Assistant, and me that one of his passwords was 69. I understood this to be a sexual reference.

[8] Respondent Passanante commented to me that he did not want to touch my nuts.

[9] Respondent Passanante commented on female employees' and my physical appearance and clothes. I never heard Respondent Passanante commenting on male employees' physical appearance or clothes.

[10] Respondent Passanante commented that REDACTED (female), Outside Representative, wore a dress that was too tight, that her "boobs were hanging out," and that she had big lips.

[11] Respondent Passanante commented that REDACTED (female), Senior Registered Nurse, looked "stuffed in her scrubs," and that she was "too big" to wear her scrubs.

[12] Employees told me that Respondent Passanante hired me because I was "pretty" and "ditzy."

[13] Employees told me that Respondent Passanante looked at me as a "ditzy" woman.

[14] Swartz (female) and John Kimmel (male), Director of Nursing, told me that Respondent Passanante did not like to be challenged or told what to do by women.

[15] Respondent Passanante yelled at REDACTED (female), Nurse, asking what was wrong with her and calling her "a fucking idiot." I never heard Respondent Passanante speak to a male employee in the same way.

[16] Respondent Passanante told REDACTED (female), Project Manager, that he was her boss and he could have anything he wanted.

[17] Respondent Passanante told REDACTED (female) that he yelled at his mom and made her cry.

[18] Respondent Passanante interrupted me during meetings.

[19] Respondent Passanante belittled the work that female employees, including me, did.

[20] Respondent Passanante treated female employees, including me, in a more hostile, dismissive, and demeaning manner than he treated male employees.

[21] Respondent Passanante treated male employees more favorably than he treated female employees, including me.

[22] Respondent Passanante unjustly criticized female employees, including me, and did not criticize male employees whose performance was deficient.

[23] I found Respondent Passanante's comments and conduct to be offensive, based on sex, and contributing to the hostile work environment to which I was subjected.

[24] When Respondent Passanante engaged in comments and conduct of a sexual and sexist nature, I objected.

[25] In or about 2018, when I asked Respondent Passanante for a salary increase, he refused and told me that I needed to get my master's degree first.

[26] In or about May 2019, after I had obtained my master's degree, Kimmel (male) told me that he had asked Respondent Passanante if I was now entitled to a raise, as I had obtained my master's degree and was Manager of three areas: Infection Control; Quality Improvement; and Regulatory Compliance. Kimmel told me that Respondent Passanante stated that I did not deserve a raise and that I did not know how to manage my money. Kimmel told me that Respondent Passanante took Kimmel and other male employees out for drinks and told them that he would get them more money.

[27] Respondents failed to give me a salary increase because of my sex.

[28] Kimmel (male) told me that Respondent Passanante is sexist and does not like successful women, and instructed me not to challenge Respondent Passanante.

[29] Kimmel (male) instructed me not to complain about Respondent Passanante, especially because Respondent Cynthia Farano (female), Chief Human Resources and Compliance Officer, would not take my side.

[30] Female employees told me that Respondent Farano did not respect women and liked male employees better.

[31] In or about the end of December 2019, Respondent Passanante came into my office and told me that he was going to give me a hug. I told him no, and refused his touch. Later that day, [REDACTED] (female) came into my office and told me that Respondent Passanante went into her office and hugged her. She stated that it made her feel uncomfortable.

[32] In or about the end of December 2019, following the above, I complained to Kimmel (male) that Respondent Passanante tried to hug me in my office.

[33] Respondent Entity failed to remedy or prevent the sex discrimination to which I was subjected.

[34] Respondent Entity failed to investigate my sex discrimination complaints.

[35] On or about January 15, 2020, in a meeting with Respondent Farano, I complained of sex discrimination. I complained of Respondent Passanante's sex-based comments, conduct, and hostility toward me. Respondent Farano instructed me to be positive and look for another job.

[36] Respondent Entity failed to remedy or prevent the sex discrimination to which I was subjected.

[37] Respondent Entity failed to investigate my sex discrimination complaints.

[38] After I complained of sex discrimination, Respondent Passanante was increasingly hostile and dismissive toward me, and treated me differently and worse than before I had complained of sex discrimination and differently and worse than male and/or noncomplaining female employees.

[39] Respondent Passanante ignored me and avoided me.

[40] Respondent Passanante withheld work-related information, support, and resources from me, and excluded me from meetings and communications necessary to do my job.

[41] Respondent Passanante unjustly criticized my performance.

[42] Respondent Passanante spoke over me in meetings.

[43] Respondent Passanante circumvented me and assigned certain of my job duties and responsibilities to other employees.

[44] On or about January 17, 2020, in a meeting with Kimmel (male), I complained of sex discrimination and retaliation. I complained of Respondent Passanante's sex-based comments and hostility toward me, and complained that Respondent Passanante's hostility toward me worsened after I complained about him to Respondent Farano.

[45] On January 21, 2020, in a meeting with Respondent Passanante and Respondent Farano, Respondent Farano stated that she told Respondent Passanante about our meeting on January 15, 2020. Respondent Farano again stated that I should look for another job and provided me with contact information for a recruiter. Respondent Passanante also stated that I should look for another job.

[46] On January 22, 2020, in a meeting with Respondent Farano, I complained that Respondent Passanante was retaliating against me because of my complaints by treating me

in an increasingly hostile manner, making it difficult for me to do my job, and unfairly criticizing my performance. I stated that I felt like Respondent Passanante was trying to push me out. Respondent Farano instructed me to avoid Respondent Passanante and look for another job.

[47] Respondent Entity failed to remedy or prevent the sex discrimination and retaliation to which I was subjected.

[48] Respondent Entity failed to investigate my sex discrimination and retaliation complaints.

[49] Antinucci (female) told me that she believed that Respondent Farano told Respondent Passanante about the sex discrimination complaint I made to Respondent Farano on January 15, 2020 and that Respondent Passanante was retaliating against me for it.

[50] On March 5, 2020, in a meeting with Respondent Passanante and Respondent Farano, Respondent Entity terminated my employment, effective immediately. Before I had complained of sex discrimination, I had no indication my job was in jeopardy. The stated reason for my termination was position elimination.

[51] Respondents terminated my employment because of my sex and/or my complaints of sex discrimination.

[52] I was the only employee at Respondent Entity who was terminated effective March 5, 2020.

[53] Respondents subjected me to a hostile work environment because of my sex and/or my complaints of sex discrimination.

[54] Respondent Entity failed to remedy or prevent the sex discrimination and retaliation at Respondent Entity.

[55] I had no opportunity to remain employed with Respondent Entity.

[56] Respondent Entity assigned my job duties to Vinit Awatramani (male), Human Resources Business Partner, John Knapp (male), Patient Safety Officer and Patient Registration Coordinator, Patricia Middaugh (female), Quality Project Manager, and Kimmel (male). I was more qualified to perform my job duties than the male and/or noncomplaining employees to whom Respondents assigned my job duties.

[57] Respondents' sex discriminatory and retaliatory conduct and comments have caused me emotional distress.

[58] Respondents' sex discriminatory and retaliatory conduct and comments constitute a continuing violation.

[59] Respondents' comments and conduct evidence a bias against female and/or complaining employees.

[60] Respondent Entity has an underrepresentation of female employees, particularly in high-level positions.

[61] Respondent Passanante aided and abetted Respondent Entity in subjecting me to sex discrimination and retaliation.

[62] Respondent Farano aided and abetted Respondent Entity in subjecting me to sex discrimination and retaliation.

[63] **I bring this Complaint as a class and pattern and practice Complaint on behalf of myself and any and all current or former employees of Respondents who are female, and have been discriminated against based on sex, in connection with the terms and conditions of their employment, including being subjected to a hostile work environment, failure to promote, compensation, and/or termination.**

B. Based on the aforementioned, I allege that Respondents have discriminated against me because of my sex (female) and retaliated against me because of my complaints of sex discrimination, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”), the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”), and the Philadelphia Fair Practices Ordinance, Phila. Code § 9-1101, *et seq.* (“PFPO”).

4. The allegations in Paragraph 3 hereof constitute unlawful discriminatory practices in violation of:

 X **Pennsylvania Human Relations Act (Act of October 27, 1955, P.L. 744, as amended) Section 5 Subsection(s): (a); (d); (e)**

 Section 5.1 Subsection(s) _____

 Section 5.2 Subsection(s) _____

 Pennsylvania Fair Educational Opportunities Act (Act of July 17, 1961, P.L. 766, as amended) Section 4 Subsection(s) _____

5. Other action based upon the aforesaid allegations has been instituted by the Complainant in any court or before any other commission within the Commonwealth of Pennsylvania as follows:

 X **This charge will be referred to the EEOC for the purpose of dual filing.**

6. The Complainant seeks that Respondent be required to:

(a) Make the Complainant whole.

(b) Eliminate all unlawful discriminatory practice(s) and procedure(s).

(c) Remedy the discriminatory effect of past practice(s) and procedure(s).

(d) Take further affirmative action necessary and appropriate to remedy the violation complained of herein.

(e) Provide such further relief as the Commission deems necessary and appropriate.

VERIFICATION

I hereby verify that the statements contained in this complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 P.A.C.A. Section 4904, relating to unsworn falsification to authorities.



(Date Signed)

(Signature)

Nicole Klein

REDACTED

Avalon, NJ 08202

EXHIBIT B

EEOC Form 161-B (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Nicole Klein
 REDACTED
 Avalon, NJ 08202

From: Philadelphia District Office
 801 Market Street
 Suite 1000
 Philadelphia, PA 19107

☐

On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

17F-2021-60011

Damon A. Johnson,
 State, Local & Tribal Program Manager

(267) 589-9722

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☒

More than 180 days have passed since the filing of this charge.

☐

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.

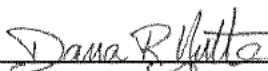
☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Dana R. Hutter,
 Deputy Director

June 10, 2021

(Date Issued)

Enclosures(s)

CC: For Respondent

Howard A. Rosenthal, Esq.
 Archer Law
 Via email: hrosenthal@archerlaw.com

For Charging Party:

Lane J. Schiff, Esq.
 Console Mattiacci Law, LLC
 Via email: schiff@consolelaw.com